

SK. JAYNAL VS. SITANATH MAJI

Mr. Subrata Santra
..for the petitioner

None appears on behalf of the opposite party despite service.

This revisional application has been filed against the order dated February 14, 2020 passed by the learned Civil Judge, Senior Division, 2nd Court at Tamluk, District Purba Medinipur in Title Suit No.104 of 2017.

The petitioner is aggrieved by the order dated February 14, 2020, by which the learned Court below directed the opposite party to deposit deficit Court fee, according to the relief claimed.

It has been urged by the petitioner that although the suit was one for eviction and recovery of possession as also arrear rent, the suit was undervalued and valuation for the relief of eviction has not mentioned in the plaint.

The learned Court below by an order dated February 14, 2020 held that the Court fees with regard

to the relief claimed for eviction had not been paid. Thus, the learned Court below directed the plaintiff to deposit deficit Court fees by correcting the valuation.

Under such circumstances, this Court does not find any reasons to interfere with the order impugned, inasmuch as, the relief of eviction has been valued in paragraph 11 of the plaint. Non-payment of the actual Court fee is a curable defect and the Court can at any time allow such defect to be cured. Although the learned Court below has wrongly mentioned the provisions of Order 7 Rule 11 of the Code of Civil Procedure as the enabling power of the Court to do so, the ultimate decision of the Court is correct and as such this order does not call for any interference. Time to comply with order of the learned court below is extended by a period of four weeks.

This revisional application is dismissed.

There will be however no order as to costs.

Urgent photostat certified copy of this order be given to the parties on priority basis, if the same is applied for.

(Shampa Sarkar,J.)

